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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 130214139-3542-02]

RIN 0648-XD251

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason Angling category retention limit adjustment.

SUMMARY: NMFS has determined that the Atlantic bluefin tuna (BFT) daily retention limit that applies to vessels permitted in the Highly Migratory Species (HMS) Angling category and the HMS Charter/Headboat category (when fishing recreationally for BFT) should be adjusted for the remainder of 2014, based on consideration of the regulatory determination criteria regarding inseason adjustments. The adjusted limit for private vessels (i.e., those with HMS Angling category permits) is one school BFT and one large school/small medium BFT per vessel per day/trip (i.e., one BFT measuring 27 to less than 47 inches, and one BFT measuring 47 to less than 73 inches). The adjusted limit for charter vessels (i.e., those with HMS Charter/Headboat permits) is two school BFT and one large school/small medium BFT per vessel per day/trip (i.e., two BFT measuring 27 to less than 47 inches, and one BFT measuring 47 to less than 73 inches). These retention limits are effective in all areas, except for the Gulf of Mexico, where NMFS prohibits targeted fishing for BFT.

DATES: Effective [insert date 3 calendar days after the date of filing for public inspection with the Office of the Federal Register], through December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978-281-9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 et seq.) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 et seq.) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) and in accordance with implementing regulations (71 FR 58058, October 2, 2006). NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

The 2014 BFT fishing year, which is managed on a calendar-year basis and subject to an annual calendar-year quota, began January 1, 2014. The Angling category season opened January 1, 2014, and continues through December 31, 2014. The size classes of BFT are summarized in Table 1. Please note that large school and small medium BFT traditionally have been managed as one size class, as described below, i.e., a limit of one large school/small medium BFT (measuring 47 to less than 73 inches).

Table 1. BFT Size Classes

Size Class	Curved Fork Length
School	27 to less than 47 inches (68.5 to less than 119 cm)
Large school	47 to less than 59 inches (119 to less than 150 cm)
Small medium	59 to less than 73 inches (150 to less than 185 cm)
Large medium	73 to less than 81 inches (185 to less than 206 cm)
Giant	81 inches or greater (206 cm or greater)

Currently, the default Angling category daily retention limit of one school, large school, or small medium BFT applies (§ 635.23(b)(2)). These retention limits apply to HMS Angling and to HMS Charter/Headboat category permitted vessels (when fishing recreationally for BFT). The currently codified Angling category quota is 182 mt (94.9 mt for school BFT, 82.9 mt for large school/small medium BFT, and 4.2 mt for large medium/giant BFT).

Adjustment of Angling Category Daily Retention Limit

Under § 635.23(b)(3), NMFS may increase or decrease the retention limit for any size class of BFT based on consideration of the criteria provided under § 635.27(a)(8), which include: the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(8)(i)); effects of the adjustment on BFT rebuilding and overfishing (§ 635.27(a)(8)(v)); effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP (§ 635.27(a)(8)(vi)); variations in seasonal BFT distribution, abundance, or migration patterns (§ 635.27(a)(8)(vii)); effects of catch rates in one area precluding vessels in another area from having a reasonable

opportunity to harvest a portion of the category's quota (§ 635.27(a)(8)(viii)); and a review of daily landing trends and availability of the BFT on the fishing grounds (§ 635.27(a)(8)(ix)). Retention limits may be adjusted separately for specific vessel type, such as private vessels, headboats, or charterboats.

NMFS has considered the set of criteria at § 635.27(a)(8) and their applicability to the Angling category BFT retention limit for the 2014 Angling category fishery. These considerations include, but are not limited to, the following: This action, which is taken consistent with the quotas previously established and analyzed in the 2011 BFT quota final rule (76 FR 39019, July 5, 2011) and consistent with objectives of the 2006 Consolidated HMS FMP, is not expected to negatively impact stock health. Biological samples collected from BFT landed by recreational fishermen continue to provide NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. A principal consideration is the objective of providing opportunities to harvest the Angling category quota without exceeding it based upon the 2006 Consolidated HMS FMP goal: "Consistent with other objectives of this FMP, to manage Atlantic HMS fisheries for continuing optimum yield so as to provide the greatest overall benefit to the Nation, particularly with respect to food production, providing recreational opportunities, preserving traditional fisheries, and taking into account the protection of marine ecosystems." It is also important that NMFS constrain landings to BFT subquotas both to adhere to the current FMP quota allocations and to ensure that landings are as consistent as possible with the pattern of fishing mortality (e.g., fish caught at each age) that was assumed in the projections of stock rebuilding.

Given the considerations above, NMFS has determined that the Angling category retention limit applicable to participants on HMS Angling and HMS Charter/Headboat category

permitted vessels should be adjusted from the default level, and that implementation of separate limits for private and charter/headboat vessels is appropriate, recognizing the different nature, socio-economic needs, and recent landings results of the two components of the recreational BFT fishery. For example, charter operators historically have indicated that a multi-fish retention limit is vital to their ability to attract customers. In addition, Large Pelagics Survey estimates indicate that charter/headboat BFT landings averaged approximately 30 percent of recent recreational landings for 2011 through 2013, with the remaining 70 percent landed by private vessels.

Therefore, for private vessels (i.e., those with HMS Angling category permits), the limit is one school BFT and one large school/small medium BFT per vessel per day/trip (i.e., one BFT measuring 27 to less than 47 inches, and one BFT measuring 47 to less than 73 inches). For charter vessels (i.e., those with HMS Charter/ Headboat permits), the limit is two school BFT and one large school/small medium BFT per vessel per day/trip when fishing recreationally for BFT (i.e., two BFT measuring 27 to less than 47 inches, and one BFT measuring 47 to less than 73 inches). These retention limits are effective in all areas, except for the Gulf of Mexico, where NMFS prohibits targeted fishing for BFT. Regardless of the duration of a fishing trip, the daily retention limit applies upon landing.

NMFS anticipates that the BFT daily retention limits in this action will result in landings during 2014 that would not exceed the available subquotas as codified in 2011. Lower retention limits could result in substantial underharvest of the codified Angling category subquota, and increasing the daily limits further may risk exceeding the available quota, contrary to the objectives of the 2006 Consolidated HMS FMP. NMFS will monitor 2014 landings closely and will make further adjustments, including closure, with an inseason action if warranted.

This Angling category action is intended to provide a reasonable opportunity to harvest the U.S. quota of BFT without exceeding it, while maintaining an equitable distribution of fishing opportunities; and to be consistent with the objectives of the 2006 Consolidated HMS FMP.

HMS Angling and HMS Charter/Headboat category permit holders may catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. Anglers are also reminded that all BFT that are released must be handled in a manner that will maximize survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the “Careful Catch and Release” brochure available at www.nmfs.noaa.gov/sfa/hms/.

If needed, subsequent Angling category adjustments will be published in the Federal Register. In addition, fishermen may call the Atlantic Tunas Information Line at (888) 872-8862 or (978) 281-9260, or access hmspermits.noaa.gov, for updates.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Based on available BFT quotas, fishery performance in recent years, the availability of BFT on the fishing grounds, among other considerations, an adjustment to the recreational BFT

daily retention limit from the default level is warranted. Analysis of available data shows that adjustment to the BFT daily retention limit from the default level would result in minimal risks of exceeding the ICCAT-allocated quota. NMFS provides notification of retention limit adjustments by publishing the notice in the Federal Register, e-mailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the Atlantic Tunas Information Line and on hmspermits.noaa.gov.

These fisheries are currently underway and delaying this action would be contrary to the public interest. Delays in increasing the daily recreational BFT retention limit would adversely affect those HMS Angling and Charter/Headboat category vessels that would otherwise have an opportunity to harvest more than the default retention limit of one school, large school, or small medium BFT per day/trip and may exacerbate the problem of low catch rates and quota rollovers. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under § 635.23(b)(3), and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 et seq. and 1801 et seq.

Dated: April 30, 2014.

Emily H. Menashes,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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